

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF PENNSYLVANIA**

<b>HOLLY IVANITCH,</b>	:	
<b>Plaintiff</b>	:	<b>CIVIL ACTION NO. 3:18-2424</b>
<b>v.</b>	:	<b>(JUDGE MANNION)</b>
<b>TOYS R' US,</b>	:	
<b>Defendant</b>	:	

**ORDER**

Presently before the court is the report and recommendation of Magistrate Judge William I. Arbuckle ("Report"), ([Doc. 9](#)), which recommends that the plaintiff Holly Ivanitch's ("Ivanitch") complaint, ([Doc. 1](#)), be dismissed for failure to state a claim upon which relief can be granted. No objections have been filed to the Report. Based on the court's review of the record in this matter, the Report is adopted in its entirety and Ivanitch's complaint, ([Doc. 1](#)), is dismissed.

When no objections are made to the report and recommendation of a magistrate judge, the court should, as a matter of good practice, "satisfy itself that there is no clear error on the face of the record in order to accept the recommendation." [Fed.R.Civ.P. 72\(b\)](#) advisory committee's note; see *also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F.Supp.2d 465, 469 (M.D.Pa.

2010) (citing *Henderson v. Carlson*, 812 F.2d 874, 878 (3d Cir. 1987) (explaining judges should give some review to every report and recommendation)). Nevertheless, whether timely objections are made or not, the district court may accept, not accept, or modify, in whole or in part, the findings or recommendations made by the magistrate judge. 28 U.S.C. §636(b)(1); M.D.Pa. L.R. 72.31.

On December 21, 2018, Ivanitch, proceeding *pro se*, filed a complaint against Toys R' Us alleging discrimination. (Doc. 1). On December 28, 2018, Judge Arbuckle issued an order, (Doc. 5), permitting Ivanitch to proceed *in forma pauperis*. In his order, Judge Arbuckle also observed that Ivanitch's complaint failed to state a claim upon which relief could be granted but permitted her "an opportunity to cure the deficiencies noted" by filing an amended complaint by January 31, 2019. (Doc. 5, at 2).

On January 31, 2019, Ivanitch filed an amended complaint. (Doc. 6). On April 17, 2019, Judge Arbuckle issued a report and recommendation, (Doc. 7), recommending that Ivanitch's amended complaint be dismissed, since it did not cure the deficiencies noted in the December order, and that she be afforded another opportunity to amend her complaint. No objections were filed and, by order dated May 8, 2019, (Doc. 8), this court adopted Judge Arbuckle's report and recommendation, agreeing that Ivanitch's

amended complaint failed to comply with Judge Arbuckle's December order. Accordingly, this court dismissed Ivanitch's amended complaint, ([Doc. 6](#)), granted her leave to file a second amended complaint by May 22, 2019, and remanded the case to Judge Arbuckle for further proceedings.

Ivanitch declined to file an amended complaint, and Judge Arbuckle issued the instant Report on August 28, 2019. In it, Judge Arbuckle observes, as in his December order, that Ivanitch's complaint failed to state a claim under Title VII of the Civil Rights Act; that she did not provide a "right to sue" letter, as is necessary prior to bringing suit under Title VII; that she failed to show discrimination under the ADA; and that she failed to comply with Federal Rules of Civil Procedure. Ivanitch has taken no steps to correct these errors, despite being given several opportunities to do so.

Therefore, having reviewed the entire Report of Judge Arbuckle, the court agrees with the sound reasoning which led him to his recommendation. As such, the court adopts the Report of Judge Arbuckle as the opinion of the court.

**NOW, THEREFORE, IT IS HEREBY ORDERED THAT:**

- (1) The Report of Judge Arbuckle, ([Doc. 9](#)), is ADOPTED IN ITS ENTIRETY;**
- (2) Ivanitch's complaint, ([Doc. 1](#)), is DISMISSED;**

**(3)** the Clerk of Court is directed to **CLOSE THIS CASE.**

s/ Malachy E. Mannion

**MALACHY E. MANNION**  
**United States District Judge**

**DATE: November 12, 2019**

18-2424-02